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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/589,466	06/07/2000	Samson Boodaghians	1999-0700	9628
26652	7590	03/30/2004	EXAMINER	
AT&T CORP. P.O. BOX 4110 MIDDLETOWN, NJ 07748			PEZZLO, JOHN	
			ART UNIT	PAPER NUMBER
			2662	
DATE MAILED: 03/30/2004				

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/589,466	BOODAGHIANS, SAMSON	
	Examiner	Art Unit	
	John Pezzlo	2662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 26 January 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-45 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5,8-12,15-25,27-37 and 39-45 is/are rejected.

7) Claim(s) 6,7,13,14,26 and 38 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

I. Claims 1, 5, 11, 12, 16, 17, 18, 21, 22, 23, 24, 25, 28, 29, 30, 31, 32, 34, 35, 36, 37, 40, 41, 42, 43, and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Comer "Internetworking with TCP/IP Volume I: Principles, Protocols, and Architecture" Third Edition, Prentice Hall, 1995, pages 92, 93, 99, 100, 123-138, and 162 hereinafter Comer.

1. Regarding claims 1 and 12 and 16 and 23 and 35 and 41 – Comer discloses introducing inband network management packets (ICMP packets) in a network (the Internet) comprising contrasting a packet including a header (IP packet), refer to page 92, Figure 7.3, and page 126, Figure 9.1.

Comer discloses that the header of the IP datagram protocol field, includes a predetermined code (value 1), refer to page 126, Figure 9.1 and description.

Comer discloses, each host or router, determines whether the packet includes an inband network management packet or a user packet, using the predetermined code, refer to pages 123-126.

2. Regarding claim 5 – Comer discloses, the predetermined code in the protocol field indicates the class of service, which the protocol requires to service the packet, refer to page 92, Figure 7.3, and pages 99 and 100.
3. Regarding claims 11 and 21 and 28 and 34 and 40 – Comer discloses the Internet, which comprises a MPLS network and determining whether a packet is an inband network management packet or a user packet, refer to pages 123-126.
4. Regarding claims 17 and 24 and 36 – Comer discloses that the IP datagram header, shim header, for the ICMP message header, and inserting the label, predetermined code, in the shim header, refer to page 92, Figure 7.3, and pages 123-126.
5. Regarding claims 18 and 31, 32, 42, and 43 – Comer discloses routing over the Internet using a stack and determining the next hop using the header (shim header), refer to Figure 11.3, page 162.
6. Regarding claims 22 and 29 and 30 – Comer discloses an originating router, constructs an inband network management packet (ICMP packet), and a receiving router receives a packet, and determines the packet is an ICMP packet or user packet, refer to pages 123-126.
7. Regarding claims 25 and 37 – Comer discloses the predetermined code is a one-bit code, refer to Figure 9.1, page 126.

8. Regarding claim 45 – Comer discloses, the routers in the Internet are can route, multi protocols, refer to pages 123-126.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- II. Claims 2, 3, 4, 8, 9, 10, 15, 19, 20, 27, 33, 39, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Comer (same as above).

1. Regarding claims 8, 15, 19, 27, 33, 39, and 44 – Comer discloses the Internet and the use of IP and ICMP packets and routers.

Comer does not expressly disclose a MPLS packet.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to utilize and route MPLS packets. The suggestion/motivation being that the Internet is the largest packet network, in use, and being able to router the different types of packets will enable the router to support more customers. The benefit will be to support more customers and increase sales and profits.

2. Regarding claim 2 - Comer discloses that the header of the IP datagram protocol field, includes a predetermined code (value 1), refer to page 126, Figure 9.1 and description.

3. Regarding claim 3 - Comer discloses a predetermined code, page 126, Figure 9.1 and description.

Comer does not disclose expressly a three-bit code.

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to utilize a three-bit code since this would allow more selections should the need arise in the future and not limit the protocol to accommodate changes and updates.

4. Regarding claim 4 - Comer discloses the predetermined code is a one-bit code, refer to Figure 9.1, page 126.

5. Regarding claim 9 - Comer discloses that the IP datagram header, shim header, for the ICMP message header, and inserting the label, predetermined code, in the shim header, refer to page 92, Figure 7.3, and pages 123-126.

6. Regarding claim 10 - Comer discloses the Internet, which comprises a MPLS network and determining whether a packet is an inband network management packet or a user packet, refer to pages 123-126.

7. Regarding claim 20 - Comer discloses routing over the Internet using a stack and determining the next hop using the header (shim header) and the payload of the packet, refer to Figure 11.3, page 162.

Allowable Subject Matter

Claims 6, 7, 13, 14, 26, and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-45 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Pezzlo whose telephone number is (703) 306-5420. The examiner can normally be reached on Monday to Friday from 8:30 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou, can be reached on (703) 305-4744. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C.

or faxed to:

(703) 872-9306

For informal or draft communications, please label "PROPOSED" or "DRAFT"

Hand delivered responses should be brought to:

Receptionist (Sixth floor)
Crystal Park 2
2121 Crystal Drive
Arlington, VA.

John Pezzlo

23 March 2004



JOHN PEZZLO
PRIMARY EXAMINER